

CASE DEREFERRAL MEMORANDUM

To: File
From: John M. Brandt
Date: 06/24/04
Re: IMS Environmental Services ("IMS")
listed as: Industrial Marine Services, Incorporated

☐ Permitted Facility.
☒ Complaint. IR 2004-T-1047
Referral Date: 12/15/03 (NOV)

Location: 1301 Marsh St, Norfolk, VA 23501

Reason for CLOSURE:

☒ Compliance achieved through informal action
☐ Letter of Agreement issued
☐ Consent order issued.
☐ Referral. Referred to:

Comments: N/A

Reasons for DEREFERRAL:

This case is recommended for dereferral because enforcement action will not add to compliance. IMS Environmental Services was issued a Notice of Violation on December 15, 2003 for appearing to operate a solid waste treatment unit without a permit. The facility operates a process where sludge resulting from its business of recovering spilled oily wastes is allowed to settle, supernatant liquids are skimmed off for recycle or discharge as applicable through the facility pretreatment system to HRSD, and the remaining solids are treated with sawdust for landfill disposal. IMS holds an industrial wastewater discharge permit #0054 issued by HRSD.

This manner of operation places IMS in the category of a centralized waste treatment ("CWT") facility, regulated under 40 CFR 437 for CWT facilities. CWT facilities are also regulated under State Water Control Law 62.1-44.2 et seq. and 9 VAC 25-31-730 through 900. A solid waste management permit is currently not required for CWT facilities, which includes the IMS process, as per Virginia Solid Waste Management Regulations conditional exemption in 9 VAC 20-80-60E.4.

In this case, it was unclear whether the treated solids at IMS can be considered part of the CWT or a separate waste management activity. Further research with central office waste compliance staff did not result in a conclusive determination.

The PRO waste program dealt with a similar situation this past year (2004). A facility in that area (Aqua Clean Environmental of Virginia, also known as RECO) had a process redesign that met CWT

IMS Environmental Services
Dereferal Memorandum
Page 2 of 2

pretreatment standards. PRO subsequently determined that the facility no longer needed a solid waste management permit.

In absence of a permit requirement and a policy determination from central office, the lack of apparent environmental risk, and the precedent already established by PRO in regulating these facilities, no further action is proposed.

Recommended by: John M. Brandt

JMB

Date: June 24, 2004

Concurrence:

Maria Gold
Regional Enforcement Manager

6/25/04
Date

Andy Kline
Deputy Regional Director

6/25/04
Date

Frank Daniel
Regional Director

6/29/04
Date



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

W. Tayloe Murphy, Jr.
Secretary of Natural Resources

5636 Southern Boulevard
Virginia Beach, VA 23462
www.deq.state.va.us

Robert G. Burnley
Director

Francis L. Daniel
Tidewater Regional Director
(757) 518-2000

December 15, 2003

**CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

Mr. Larry Halda
IMS Environmental Services
1301 Marsh Street/ P.O. Box 1779
Norfolk, Virginia 23501-1779

NOTICE OF VIOLATION

**RE: IR 2004-T-1047
IMS Environmental Services
1301 Marsh Street
Chesapeake**

Dear Mr. Halda:

This letter notifies you of information upon which the Department of Environmental Quality (DEQ) may rely in order to institute an administrative or judicial enforcement action. It is neither a case decision under the Virginia Administrative Process Act, Code 2.2-4000 *et seq.*, nor an adjudication. On behalf of the Department I request that you respond to this letter within 10 days. The following contains the staff's factual observations and identifies the applicable law and regulations.

FACTS AND LEGAL REQUIREMENTS

On November 12, 2003, DEQ Tidewater Regional Office ("TRO") staff conducted an inspection at the IMS facility located at 1301 Marsh Street in Chesapeake, Virginia. It was observed that the facility is actively operating a sludge treatment solidification unit. We observed that two

large storage tanks had been cut in half and then placed "open end up" in the ground. This unit is considered a miscellaneous treatment unit. We were informed that sludge from oily waste is put into these tanks and then either powdered cement or sawdust is used to solidify it. The final product is taken to a landfill for disposal. We also observed other solid waste debris including paint cans and buckets in this unit.

Based on this inspection, DEQ has reason to believe that IMS Environmental Services may be in violation of the Virginia Solid Waste Management Regulations.

9 VAC 20-80-90.A.1. states that "No person shall operate any sanitary landfill or other facility for the disposal, treatment or storage of solid waste without a permit from the director." A review of DEQ files did not find that a permit has been obtained.

9 VAC 20-80-470.B. states that "A miscellaneous unit shall be located, designed, constructed, operated, maintained, and closed in a manner that will ensure protection of human health and the environment. Permits for miscellaneous units are to contain such terms and provisions as necessary to protect human health and the environment, including, but not limited to, as appropriate, siting, design and operating requirements, detection and monitoring requirements, and requirements for responses to releases of solid waste or constituents of solid wastes from the unit. Permit terms and provisions shall include those requirements of Part V of this chapter, 9VAC20-80-330 through 9VAC20-80-460, and Parts VII (9VAC20-80-480 et seq.) and VIII (9VAC20-80-630 et seq.) of this chapter, that are appropriate for the miscellaneous unit being permitted."

ENFORCEMENT AUTHORITY

Code 10.1-1455 of the Waste Management Act provides for an injunction for any violation of the Waste Act, any Waste Management Board regulation, any condition of a permit or certification, or order. The same statute provides for a judicially imposed civil penalty up to \$25,000 per day of such violation. Code 10.1-1455(G) also authorizes the Board to issue orders to address such violations and impose penalties up to \$25,000 per violation. In addition, Code 10.1-1186 authorizes the Director of DEQ to issue special orders to any person to comply with the Waste Act and regulations, and to impose a civil penalty of not more than \$10,000. Code § 10.1-1455(D) provides for other additional penalties.

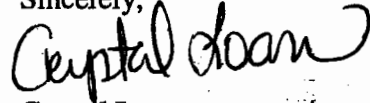
The Court has the inherent authority to enforce its injunction, and is authorized to award the Commonwealth its attorneys' fees and costs.

FUTURE ACTIONS

Before taking further action, the staff wishes to discuss all aspects of this matter with you including the actions required to return to compliance, measures you plan to take or have taken to address the violations noted above, and a schedule for taking any remaining actions.

Please contact John Brandt at (757) 518-2010 within ten days of the date of this letter to discuss this matter and arrange a meeting. At that time, please advise us if you dispute any of the facts here stated or if there is other information that you believe DEQ should consider. At that time, you may be asked to enter into a Consent Order with the Department to formalize a plan and schedule of corrective action and to settle any outstanding issues regarding this matter, including the payment of civil charges.

Sincerely,



Crystal Loan
PREP Coordinator

cc: Mr. John Brandt, DEQ Enforcement
Don Brunson, DEQ Waste Permitting
Jeffrey Deibler, DEQ Waste Compliance Technical Coordinator
PREP File